



STATE OF TENNESSEE  
**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**  
WORKFORCE SERVICES DIVISION  
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**WORKFORCE SERVICES POLICY #18.0**

**Subject:**        **USE OF RAPID RESPONSE FUNDS AND LOCAL AREA FORMULA FUNDING FOR INCUMBENT WORKER TRAINING**

**Topic:**        The purpose of this policy is to provide guidance to Tennessee's American Job Center system regarding the use of Rapid Response funding and local area formula funding for Incumbent Worker Training (IWT) only as part of a layoff aversion strategy. IWT may be delivered as a state wide program using Rapid Response (20%) or by a LWIA using local formula funding using up to 10% of local Adult funds and up to 10% of local Dislocated Worker funds only as a part of a lay-off aversion strategy as referenced in TEGL's 26-09 and 30-09 as an Incumbent Worker statewide activity as granted in the state waiver approved by ETA on March 7, 2014.

**Scope:**        Tennessee Department of Labor and Workforce Development (TDLWD), State Workforce Development Board (State Board), Workforce Services Division (WSD), One-Stop Operator (Operator) as defined in 662.220, Local Workforce Investment Boards (LWIB), Local Workforce Investment Areas (LWIA), other Workforce System Sub-Recipients (Sub-Recipients), Workforce System Partners (Partners), Comprehensive Career Center (Center); Affiliate Career Center (Affiliate Career Center); American Job Centers (Workforce System).

**References:**    TEGL 21-11; TEGL No. 21-11, Change 1; WIA Section 189(I); WIA Section 134(a); and Tennessee's State Plan Approval Letter; WIA Section 134( a)(3); TEGL 26-09, Section 7A(I); and TEGL 30-09.

**Background:**

WIA Section 134(d)(3)(A) prohibits the use of Rapid Response Funding for incumbent worker training. The State has been granted waivers to provide incumbent worker training with rapid response funds as a statewide program and for LWIA's using local formula funding (see Attachment A). Through these waiver approvals the State Waiver Plan will reduce layoffs and closures by assisting companies in saving jobs and becoming more competitive through provision of needed training to current workers. Through their implementation, these waivers

will further the state's workforce investment system and will align with the states strategic plan goals by addressing the need for a more skilled workforce and assist in the retention of businesses.

The following is the Statewide Guidance & Criteria for LWIA's, LWIB's and employers to use, when applying for Incumbent Worker Training Grants for the purposes of determining the appropriate use of IWT for Layoff Aversion. These criteria should be followed when using State wide funds or Local formula funds.

### **Statewide Guidance & Criteria for Determining the Appropriate use of Incumbent Worker Training for Layoff Aversion:**

**1. Definition of Layoff Aversion.** Layoff aversion occurs when: 1) a worker's job is saved with an existing employer that is at risk of downsizing or closing; or, 2) a worker at risk of dislocation transitions to a different job with the same employer or to a new job with a different employer and experiences no, or a minimal, period of unemployment.

**2. Benefits of Layoff Aversion.** There are many benefits that accrue to workers, employers, taxpayers, and communities when layoffs are averted. For workers, the loss of income and benefits associated with unemployment can be financially devastating; it may also bring the risk of damaging the well-being of the worker's family. Retaining the same position or transitioning to a different position with retooled skills, at a comparable wage, maintains financial stability compared to the loss of income sustained when drawing unemployment compensation, which on average is 36 percent of the worker's average, weekly wage when employed.

For employers, retaining a known reliable worker can save: costs associated with severance; costs associated with having unfilled, vacant job openings; costs associated with recruiting and orienting a new employee with requisite skills to the procedures, culture and systems of the company that the former worker already knew; and intangible costs such as avoiding lower overall company morale for remaining workers when their co-workers are laid off. Additionally, layoffs often lead to increases in that employer's unemployment compensation tax rates.

For taxpayers, averting layoffs saves outlays from unemployment trust funds and other taxpayer-funded services that the unemployed worker may draw. Finally, for communities, averting layoffs is far less disruptive and costly when compared to providing emergency food and health services to financially strained families, and to coping with the loss of property taxes associated with high home foreclosure rates. Averting layoffs will also facilitate the maintenance of overall community economic wellness, which can be threatened when a mass layoff creates tertiary layoffs due to reduced overall consumption in the community.

**3. Layoff Aversion Strategies.** There are a wide variety of approaches and strategies available to assist in this endeavor, including early identification of at-risk companies, assessing the needs of such companies, and delivering services to address risk factors. Incumbent Worker Training (IWT) is another approach that the public workforce investment system may provide to avert layoffs, using either WIA statewide discretionary funds, which can be used for IWT without the need for a waiver, or by using a limited portion of local formula or Rapid Response funds via an approved waiver.

**4. Identifying Layoff Risks.** Other than the instance of an employer's layoff announcement, the period leading up to such an announcement is often unknown to those outside the management of a company. By the time a layoff is formally announced or otherwise made public, many options for assisting the company and workers to address threats are no longer feasible. That is why it is important to use the LWIAs and local workforce boards to provide a pro-active approach to layoff aversion by accessing Incumbent Worker Training.

**Providing publicly-funded training to incumbent workers (who are otherwise ineligible for WIA-funded services) when there is no foreseeable threat of layoffs in the future in order to generally "increase the competitiveness" of the employer/business, would not constitute a "layoff aversion strategy."**

IWT, when appropriately deployed, can effectively avert layoffs either by saving the job with an existing employer through skill upgrades or by providing the worker with skills to transfer to a new job.

#### **5. Using Incumbent Worker Training for Layoff Aversion.**

When determining if IWT is appropriate, you should consider whether, absent the training, a good job will be lost or degraded, and whether, with the training, the job will be retained or improved. Use the following considerations to determine whether the proposed training would be helpful in averting a layoff and whether the training itself is appropriate:

##### **Employer Assessment:**

The company remains open, but it is phasing out a function which will lead to layoffs unless the workers can be retrained to perform new functions. For example, a large hospital that transitions from paper-based medical records to electronic medical records may need medical records staff with different or more advanced skills than the staff that handles the paper-based records. Unless these workers can be retrained in electronic records, the hospital may choose to lay them off and hire other workers with the needed skills.

1. A worker's job has changing skill requirements as a result of external economic or market forces, significant changes in technology or operating processes, rapidly changing industry or occupational job requirements, or emergence of new products.
2. The changing skill requirements are outside of normal skill growth and upkeep that would be provided by the employer.
3. Training programs reasonably prepare workers to address these skill gaps.
4. The employer demonstrates a commitment to retain employees or otherwise provide a tangible benefit to employees who receive IWT.
5. The company is required, as part of the application process, to complete a "Layoff Aversion Attestation" that will document the layoff aversion strategy relating to the proposed training.

**Worker Assessment:**

1. Unless provided with training, the potentially laid-off worker does not have marketable, in-demand skills.
2. The new skills can be attained in a reasonable period of time.
3. There exists a strong possibility of a job, either with the existing employer or a new employer, if the potentially laid off worker attains new skills.

**Guidelines for statewide funding:**

Guidelines and Frequently Asked Questions for LWIAs who choose to utilize the Waiver of WIA Section 134 (a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training are available at [www.state.tn.us/labor-wfd](http://www.state.tn.us/labor-wfd). Here you will also find the application which will be used for state wide and local formula funding.

**Instructions for local formula funding:**

Listed below are instructions for LWIAs who choose to utilize the waiver which allows for providing local boards, at their discretion, to spend up to 10% of Adult and up to 10% of Dislocated Worker local funds allocated under WIA Section 133(b) to carry out statewide Incumbent Worker Training programs.

1. The Incumbent Worker Training (IWT) application process ([www.state.tn.us/labor-wfd](http://www.state.tn.us/labor-wfd)) currently being used for Statewide Incumbent Worker will continue to be used and establishes the State developed guidelines and the statewide guidance & criteria listed above. The existing IWT process focuses on lay-off aversion which is also required under this waiver.
2. All applications will be submitted to the Workforce Services Division for final approval.
3. Since this waiver permits local areas to use local funds for statewide activity for IWT, eligibility for companies applying for grant consideration will be the same as eligibility in the existing statewide IWT grant process.
  - a) Local areas that choose to use the 10% Adult funds for Incumbent Worker training are restricted to serving lower-income adults under this waiver and are required to follow the statutory definition of lower-income as the Lower Living Standard Income Levels (LLSIL) using the income table containing calculated poverty levels for a family of two as the average.
  - b) Local areas utilizing up to 10% of their Dislocated Worker funds for IWT are not subject to the lower-income requirement.

4. Receive local Board approval of all Incumbent Worker activity covered under this waiver.
5. LWIAs will advise the state of local funds set aside by local boards for IWT.
6. Provide the State with the above documentation and include as an addendum to this year's plan.
7. Provide information in the state data capture system as directed by state staff.

**Contact:** For questions regarding this policy, please contact Susie Bourque, Director of Policy and Special Projects, at 615-741-1031 or [Susie.Bourque@tn.gov](mailto:Susie.Bourque@tn.gov) .

**Effective Date:** December 12, 2014

**Duration:** June 30, 2015



Dan Holton  
Assistant Administrator

## **Attachment A**

### **Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training**

The State is requesting a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to allow local areas to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 13(d), and the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD, field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

### **Waiver of WIA Section 134 (a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.**

The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a) (3), specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under his waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010 "and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.